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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,177	03/05/2007	Hiroshi Kuwamura	2006_0774A	4034

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WENDEROTH, LIND & PONACK L.L.P.  
1030 15th Street, N.W.  
Suite 400 East  
Washington, DC 20005-1503

EXAMINER
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NGUYEN, HUNG D

ART UNIT	PAPER NUMBER
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3742

NOTIFICATION DATE	DELIVERY MODE
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07/09/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
coa@wenderoth.com

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/580,177		KUWAMURA, HIROSHI	
	<b>Examiner</b>		<b>Art Unit</b>	
	HUNG NGUYEN		3742	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Drawings***

1. Figure 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Duplicate Claims***

2. Applicant is advised that should claims 10 and 11 be found allowable, claim 19 and 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4. Claims 1-3, 5, 7, 10-14, 17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stedron et al. (US Pat. 6,043,462) in view of Dills (US Pat. 3,612,827) (both newly cited).**

5. Regarding claim 1, Stedron et al. discloses a built-in cooking appliance (Fig. 1) comprising a main body that includes a casing (41, Fig. 1) having an opening defined therein at an upper portion thereof, a heat source (40, Fig. 1) accommodated in the casing (Refer Fig. 1), and a top plate unit (20, Fig. 1) fixed to the casing (41, Fig. 1) so as to close the opening in the casing, the main body being adapted to be inserted into an opening (Fig. 1 shown a cut-out; Col. 4, Line13-14) defined in a kitchen counter (10, Fig. 1) such that a lower surface of the top plate unit (20, Fig. 1) is placed on the kitchen counter (10, Fig. 1; Col. 5, Lines 21-22), the top plate unit includes: a top plate 20 (Fig. 1) for supporting an object to be heated; an underframe (30.1, Fig. 1) for holding the top plate placed on an upper surface thereof, the underframe (30.1, Fig. 1) having an outer peripheral edge confronting an upper surface of the kitchen counter. Stedron et al. does not disclose a decorative panel for covering an upper portion of an outer peripheral edge of the top plate; wherein the decorative panel has an inwardly bent portion that has been formed by bending an outer peripheral edge portion of the decorative panel inwardly toward a lower surface of the underframe to hold the outer peripheral edge of the underframe. Dills discloses a decorative panel (47, Fig.2) covering an upper portion of an outer peripheral edge of the top plate (10, Fig. 2); wherein the decorative panel (47, Fig. 2) has an inwardly bent portion (50, Fig. 2) that

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has been formed by bending an outer peripheral edge portion of the decorative panel inwardly toward a lower surface of the underframe (12, Fig. 2) to hold the outer peripheral edge of the underframe. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Stedron et al., a decorative panel for covering an upper portion of an outer peripheral edge of the top plate; wherein the decorative panel has an inwardly bent portion that has been formed by bending an outer peripheral edge portion of the decorative panel inwardly toward a lower surface of the underframe to hold the outer peripheral edge of the underframe, as taught by Dills, for the purpose of securing the top plate and the casing.

6. Regarding claim 2 and 13, Dills discloses at least a portion of the inwardly bent portion (50, Fig. 2) is sandwiched between the outer peripheral edge of the underframe (12, Fig. 2) and the upper surface of the cook top (26, Fig. 2) such that part or all of a total weight of the main body is applied to the at least the portion of the inwardly bent portion that is sandwiched between the outer peripheral edge of the underframe and the upper surface of the cook top.

7. Regarding claims 3 and 14, Stedron et al. further discloses a kitchen counter (10, Fig. 2) having the built-in cooking appliance according to claim 1 received in an opening defined therein (Fig. 2 shown the built-in cooking appliance and a cut-out; Col. 4, Line 13-14), wherein a surface of the underframe (30.1, Fig. 2) on which the top plate is placed (20, Fig. 2) is lower than the upper surface of the kitchen counter (10, Fig. 2) on which the decorative panel is placed (Col. 5, Lines 28-37).

**8.** Regarding claim 5, Stedron et al. discloses the top plate (20, Fig. 1), the underframe (30.1, Fig. 1) are bonded together. Dills discloses the decorative panel (47, Fig. 2). The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this case, the term “the top plate, the underframe, and the decorative panel are bonded together at the same time” is considered a product-by-process claim; therefore, no patentable weight is given to the term, and the patentable weight is only given to “the top plate, the underframe, and the decorative panel are bonded together”.

**9.** Regarding claims 7 and 17, Stedron et al. discloses a kitchen counter (10, Fig. 1) having the built-in cooking appliance received in an opening defined therein, the kitchen counter (10, Fig. 1) comprising: an upper surface on which the built-in cooking appliance is placed (see Fig. 1); and a stepped portion (11, Fig. 1) formed around the opening so as to be lower than the upper surface of the kitchen counter (10, Fig. 1), a predetermined clearance (at 61, Fig. 1) is provided between lower surface of the underframe (30. 1, Fig. 1) and the upper surface of the stepped portion (11, Fig. 1). Dill discloses a lower surface of the inwardly bent portion (50, Fig. 2) of the decorative panel (47, Fig. 2) is held in contact with the upper surface of the cook top (26, Fig. 2).

**10.** Regarding claim 10 and 19, Stedron et al. discloses a kitchen counter (10, Fig. 1) having the built-in cooking appliance received in an opening defined therein, wherein the lower surface of the underframe (30.1, Fig. 1) faces the upper surface of the kitchen

counter (10, Fig. 1). Dills discloses the outer peripheral edge portion of the decorative panel (50, Fig. 2) is sandwich between the lower surface of the underframe (42, Fig. 2) and the upper surface of the cook top (26, Fig. 2).

**11.** Regarding claims 11 and 20, Stedron et al. discloses a kitchen counter (10, Fig. 1) having the built-in cooking appliance received in an opening defined therein, wherein the lower surface of the underframe (30.1, Fig. 1) faces the upper surface of the kitchen counter (10, Fig. 1). Dills discloses the outer peripheral edge portion of the decorative panel (50, Fig. 2) contacts the lower surface of the underframe (42, Fig. 2) and the upper surface of the cook top (26, Fig. 2).

**12.** Regarding claim 12, Stedron et al. discloses a built-in cooking appliance (Fig. 1) comprising a main body that includes a casing (41, Fig. 1) having an opening defined therein at an upper portion thereof, a heat source (40, Fig. 1) accommodated in the casing, and a top plate (20, Fig. 1) unit fixed to the casing (41, Fig. 1) so as to close the opening in the casing, the main body being adapted to be inserted into an opening (Fig. 1 shown a cut-out; Col. 4, Line13-14) defined in a kitchen counter (10, Fig. 1) such that a lower surface of the top plate unit (20, Fig. 1) is placed on the kitchen counter (10, Fig. 1; Col. 5, Lines 21-22), wherein the top plate unit includes: a top plate (20, Fig. 1) for supporting an object to be heated; an underframe (30.1, Fig. 1) supporting the top plate placed on an upper surface thereof, the underframe (30.1, Fig. 1) having an outer peripheral edge arranged to face an upper surface of the kitchen counter (10, Fig. 1) and support the top plate unit (20, Fig. 1) on the upper surface of the kitchen counter (10, Fig. 1). Stedron et al. does not disclose a decorative panel covering an upper

portion of an outer peripheral edge of the top plate, wherein an inner peripheral edge of the decorative panel is connected to an upper surface of the top plate, and wherein an outer peripheral edge of the decorative panel is bent around the underframe and contacts a lower surface of the underframe such that the decorative panel holds the top plate to the underframe. Dills discloses a decorative panel (47, Fig. 2) covering an upper portion of an outer peripheral edge of the top plate (10, Fig. 2), wherein an inner peripheral edge of the decorative panel (47, Fig. 2) is connected to an upper surface of the top plate (10, Fig. 2), and wherein an outer peripheral edge (50, Fig. 2) of the decorative panel is bent around the underframe (12, Fig. 2) and contacts a lower surface of the underframe (12, Fig. 2; at 42) such that the decorative panel holds the top plate (10, Fig. 2) to the underframe (12, Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Stedron et al., a decorative panel covering an upper portion of an outer peripheral edge of the top plate, wherein an inner peripheral edge of the decorative panel is connected to an upper surface of the top plate, and wherein an outer peripheral edge of the decorative panel is bent around the underframe and contacts a lower surface of the underframe such that the decorative panel holds the top plate to the underframe, as taught by Dills, for the purpose of securing the top plate and the casing together.

**13.** Regarding claim 21, Stedron et al. discloses a kitchen counter (10, Fig. 1) having an opening defined therein (see Fig. 1 for opening), an upper surface, and a built-in cooking appliance received in the opening (see Fig. 1 for built-in cooking appliance), the built-in cooking appliance comprising a main body that includes a casing



(41, Fig. 1) having an opening defined therein at an upper portion thereof, a heat source (40, Fig. 1) accommodated in the casing, and a top plate (20, Fig. 1) unit fixed to the casing so as to close the opening in the casing, the main body being adapted to be inserted into an opening defined in a kitchen counter such that a lower surface of the top plate unit is placed on the kitchen counter (at 23, Fig. 1), wherein the top plate unit includes: a top plate (20, Fig. 1) for supporting an object to be heated; an underframe (30.1, Fig. 1) supporting the top plate placed on an upper surface thereof, the underframe having an outer peripheral edge (at 60, Fig. 1) facing an upper surface of the kitchen counter and supporting the top plate unit ( at 23, Fig. 1) on the upper surface of the kitchen counter. Stedron et al. does not disclose a decorative panel covering an upper portion of an outer peripheral edge of the top plate, wherein an inner peripheral edge of the decorative panel is connected to an upper surface of the top plate, wherein an outer peripheral edge of the decorative panel is bent around the underframe and contacts a lower surface of the underframe such that the decorative panel holds the top plate to the underframe, and wherein a lower surface of the underframe faces the upper surface of the kitchen counter, and the outer peripheral edge portion of the decorative panel is sandwiched between the lower surface of the underframe and the upper surface of the kitchen counter. Dills discloses a decorative panel (47, Fig. 2) covering an upper portion of an outer peripheral edge of the top plate (at 54, Fig. 2), wherein an inner peripheral edge of the decorative panel (at 51, Fig. 2) is connected to an upper surface of the top plate (54, Fig. 2), wherein an outer peripheral edge of the decorative panel (50, Fig. 2) is bent around the underframe (at 42, Fig. 2)

and contacts a lower surface of the underframe such that the decorative panel holds the top plate (10, Fig. 2) to the underframe (12, Fig. 2), and wherein a lower surface of the underframe (at 40, Fig. 2) faces the upper surface of the cook top (26, Fig. 2), and the outer peripheral edge portion of the decorative panel is sandwiched between the lower surface of the underframe (42, Fig. 2) and the upper surface of the cook top (26, Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Stedron et al., a decorative panel covering an upper portion of an outer peripheral edge of the top plate, wherein an inner peripheral edge of the decorative panel is connected to an upper surface of the top plate, wherein an outer peripheral edge of the decorative panel is bent around the underframe and contacts a lower surface of the underframe such that the decorative panel holds the top plate to the underframe, and wherein a lower surface of the underframe faces the upper surface of the kitchen counter, and the outer peripheral edge portion of the decorative panel is sandwiched between the lower surface of the underframe and the upper surface of the kitchen counter, as taught by Dills, for the purpose of locking the trim ring and the underframe together.

**14. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stedron et al. (US Pat. 6,043,462) in view of Dills (US Pat. 3,612,827) and further view of Fischer et al. (US Pat. 4,490,603) (newly cited).**

**15.** Regarding claims 4 and 15, Stedron/Dills disclose substantially all features of the claimed invention as set forth above including from Stedron, a kitchen counter (10, Fig. 1) having a built-in cooking appliance receiving in an opening defined therein, wherein

when the main body is inserted into the opening in the kitchen counter (see Fig. 2)

**except** a predetermined clearance is created between the upper surface of the kitchen counter and the lower surface of the underframe inside the inwardly bent portion of the decorative panel, and wherein a sealant is provided in the predetermined clearance below the surface of the underframe. Fischer et al. discloses a predetermined clearance (at 20, Fig. 2) is created between the upper surface of the mounting plate (14, Fig. 2) and the lower surface of the underframe (19, Fig. 2) inside the inwardly bent portion (16, Fig. 2) of the mounting ring (12, Fig. 2), and wherein a sealant (20, Fig. 2) is provided in the predetermined clearance below the lower surface of the underframe (19, Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Stedron/Dills, a predetermined clearance is created between the upper surface of the kitchen counter and the lower surface of the underframe inside the inwardly bent portion of the decorative panel, and a sealant is provided in the predetermined clearance below the surface of the underframe, as taught by Fischer et al., for the purpose of securing the mounting ring to the outer edge of the glass plate.

**16. Claims 6, 9, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stedron et al. (US Pat. 6,043,462) in view of Dills (US Pat. 3,612,827) and further view of Stedron et al. (US Pat. 6,207,933) (newly cited).**

**17.** Regarding claim 6, Stedron'462/Dills disclose substantially all features of the claimed invention as set forth above including from Steiner or Hurko, the decorative panel **except** the underframe has a downwardly protruding adhesive receiving groove

defined therein below the outer peripheral edge of the top plate, and further comprising an adhesive received in the adhesive receiving groove to bond the top plate, the underframe, and the decorative panel together at the same time. Stedron'933 discloses the underframe (20, Fig. 1) has a downwardly protruding adhesive receiving groove (26, Fig. 1) defined therein below the outer peripheral edge of the top plate (10, Fig. 1), and further comprising an adhesive (30, Fig. 1) received in the adhesive receiving groove (26, Fig. 1) to bond the top plate (10, Fig. 1), the underframe (20, Fig. 1) together at the same time. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Stedron'462/Dills, the underframe has a downwardly protruding adhesive receiving groove defined therein below the outer peripheral edge of the top plate, and further comprising an adhesive received in the adhesive receiving groove to bond the top plate, the underframe, and the decorative panel together at the same time, as taught by Stedron'933, for the purpose of securing the top plate, the underframe and the decorative panel together.

**18.** Regarding claims 9 and 18, Stedron'462/Dills disclose substantially all features of the claimed invention as set forth above including from Stedron'462, the kitchen counter (10, Fig. 1) comprising: an upper surface on which the built-in cooking appliance (See Fig. 1) is place; and a stepped portion (11, Fig. 1) formed around the opening so as to be lower than the upper surface of the kitchen counter. Dills discloses a lower surface of the inwardly bent portion (50, Fig. 2) of the decorative panel (473, Fig. 2) in contact with the upper surface of the cook top (26, Fig. 2). Stedron'933 discloses a predetermined clearance is provided between a lower surface of the adhesive receiving

groove (26, Fig. 1) **except** the predetermined clearance is provided between a lower surface of the adhesive receiving groove and the upper surface of the stepped portion. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to make with the predetermined clearance is provided between a lower surface of the adhesive receiving groove and the upper surface of the stepped portion, for the purpose of having a clearance of installation.

**19.** Regarding claim 16, Stedron'462/Dills disclose substantially all features of the claimed invention as set forth above including from Stedron'462, the top plate (20, Fig. 1), the underframe (30.1, Fig. 1) are bonded together. Dills discloses the decorative panel (47, Fig. 2). Stedron'933 discloses the underframe (20, Fig. 1) has a downwardly protruding adhesive receiving groove (26, Fig. 1) defined therein below the outer peripheral edge of the top plate (10, Fig. 1), and further comprising an adhesive (30, Fig. 1) received in the adhesive receiving groove (26, Fig. 1) to bond the top plate (10, Fig. 1), the underframe (20, Fig. 1) together. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this case, the term "the top plate, the underframe, and the decorative panel are bonded together at the same time" and "an adhesive received in the adhesive receiving groove to bond the top plate, the underframe, and the decorative panel together at the same time" is considered a product-by-process claim; therefore, no patentable weight is given to the term, and the

patentable weight is only given to “the top plate, the underframe, and the decorative panel are bonded together” and “an adhesive received in the adhesive receiving groove to bond the top plate, the underframe, and the decorative panel together”.

**20.** Applicant's arguments with respect to claims 1-7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

**21.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG NGUYEN whose telephone number is (571)270-7828. The examiner can normally be reached on Monday-Friday, 9M-6PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUNG NGUYEN/  
Examiner, Art Unit 3742  
3/30/2010

/TU B HOANG/  
Supervisory Patent Examiner, Art Unit 3742